

### **REMARKS**

Claims 1-29 were pending in the application. Claims 2, 16-21, and 29 have been withdrawn from consideration by the Examiner as being drawn to non-elected inventions. Claims 1, 3-15, 17, 23, 25, 27 and 28 have been amended. Claims 30 and 31 have been added. No new matter has been introduced. Thus, claims 1, 3-15, 22-28, 30 and 31 are submitted for reconsideration at this time.

A one-month Extension of Time is filed concurrently herewith.

#### **Interview of March 17, 2003**

Applicants thank the Examiner for the interview of March 17, 2003 with Applicants' representatives. In accordance with the agreement reached with the Examiner, Applicants have amended claims 1, 3 and 4 as set forth in the Discussion Draft presented during the interview, and have further amended claim 4 to specifically recite the floor of the truck. The specific pending rejections to claims 1, 3, and 4 are addressed in detail below. Applicants respectfully request that the Examiner contact the undersigned by telephone, should the Examiner maintain his rejection of claims 1, 3, and 4 after a more detailed review of the claims in view of this Amendment & Reply.

#### **In the Drawings**

Figure 8 is objected to for mislabeling 145, which should be 147, and for mislabeling 147, which should be 143. Applicants have amended the drawings accordingly as indicated on the attached Proposed Changes to the Drawings. New formal drawings will be submitted.

#### **In the Specification**

The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. Specifically, the dimensions recited in claims 11-13, and 28 are not described in the instant specification text. Applicants have amended paragraph [0041] to explicitly recite these dimensions as examples. As these dimensions were fully supported in original claims 11-13, and 28, no new matter has been introduced.

Additionally, the disclosure is objected to because "1910" on page 15, line 13 should be "1940". Applicants have amended paragraph [0073] to correct this typographical error.

Withdrawal of the objection to the specification is earnestly solicited.

**Rejections Under 35 U.S.C. § 112, ¶ 2**

Claims 4 and 27 stand rejected under 35 U.S.C. § 112, ¶ 2 as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. Specifically, claim 4 is rejected for lacking proper antecedent basis for "the horizontal plane", and claim 27 is rejected for lacking proper antecedent basis for "the cargo bed of a pickup truck". Claims 4 and 27 have been amended accordingly. Withdrawal of the rejection under 35 U.S.C. § 112, ¶ 2 is earnestly solicited.

**Rejections Under 35 U.S.C. § 102**

Claims 1, 3, 4, 6-9, 11-13, and 22-28 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 3,643,973 ("Bott '973" hereafter).

Claims 1 and 5 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,396,324 ("Ellis" hereafter).

Claims 1, 5, 14, and 15 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,270,301 ("Dunlop" hereafter). Applicants note that the rejection over Dunlop is set forth in the Office Action as being under 35 U.S.C. § 102(b), though Dunlop issued on August 7, 2001, after the present application's June 7, 2001 filing date. Thus, Dunlop is considered to be a reference under 35 U.S.C. § 102(e), rather than 35 U.S.C. § 102(b). Applicants reserve the right to antedate this reference at a later time.

Claims 1, 4, 14, 15, and 22 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,717,298 ("Bott '298" hereafter).

Claims 1 and 10 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,433,566 ("Bradley" hereafter). Applicants respectfully traverse the aforementioned rejections as set forth below.

**U.S. Patent No. 3,643,973 (Bott)**

Bott '973 is directed at a slidable tiedown device for an automobile vehicle such as a pickup truck (see Abstract). Specifically, Bott '973 discloses an elongated channel member 26 mounted on a recess wall 20 by sheet metal screws 28 (col. 1, lines 41 to 43). However, Bott '973 fails to disclose or suggest a mounting surface of the track that is recessed with respect to the contour of adjacent portions of a

horizontal plane of the body. Rather, as shown in Fig. 1, the Bott '973 channel member 2 is mounted within a recess with respect to a vertical plane of the side walls of the body.

Regarding claim 3 specifically, Bott '973 fails to disclose or suggest a fitting which can be slidably moved within the track and then fixed in a desired position, the entire fitting being releasable from the track. More specifically, the fit of the channel member 26 within the recess 18 is such that opposite ends of the channel member 26 are closed (col. 2, lines 10 to 13), which prevents the tiedown device 40 from coming out of the channel 38 at the opposite ends thereof. Additionally, the width of the guide portion 42 is greater than the width of the slot 36 (col. 2, lines 6 to 8), which prevents the tiedown device 40 from passing outwardly through the slot 36 (col. 2, lines 8 to 10). Thus, the tiedown device 40 of Bott '973 is not releasable from the channel member 26 as claimed by either top down loading or end loading.

Regarding claim 4 specifically, Bott '973 fails to disclose or suggest a track which does not extend appreciably beyond a horizontal plane of a floor of the cargo bed as claimed. More specifically, as noted above the elongated channel member 26 of Bott '973 is mounted on the recess wall 20 (col. 1, lines 41 to 43), and is thus above the horizontal plane of the cargo bed. Hence, the channel member 26 of Bott '973 extends appreciably beyond the horizontal plane of a floor of the cargo bed, which is contrary to claim 4.

Thus, as Bott '973 fails to disclose or suggest all of the claimed features, it cannot anticipate the claimed invention.

**U.S. Patent No. 4,396,324 (Ellis)**

Ellis is directed at a tie-down apparatus which extends below top rim walls on side walls for a load-carrying bed of a pick-up truck (see Abstract). Specifically, Ellis discloses rectangularly-shaped tubes 35 for supporting opposite end portions of rectangular tie-down tubes 36 (col. 3, lines 65 to 68; FIG. 4). The rectangularly-shaped tubes 35 are attached to holders 25 (col. 3, line 68 to col. 4, line 3), which are mounted on the walls 21 (col. 3, lines 17 to 20).

As shown in FIG. 4, the "mounted surface" of the rectangular tie-down tube 36 (corresponding to the side opposite the slotted surface) is not recessed with respect to the contour of adjacent portions of the body. (see FIG. 4). Moreover, the tie-down

tubes 36 (with the slot) of Ellis are *not* mounted on the body as claimed. Rather, the tie-down tubes 36 of Ellis are mounted within the receiving tubes 35, which are mounted on the body.

Thus, as Ellis fails to disclose or suggest all of the claimed features, it cannot anticipate the claimed invention.

**U.S. Patent No. 6,270,301 (Dunlop)**

Dunlop is directed at a tiedown rail system including a plurality of tie anchors which secures cargo on a pickup truck bed (see Abstract). As shown in FIG. 4, the bottom wall 32 of the rail 26 is clamped to the rim 21 of the cargo box between a clamping screw and toe 44 (col. 3, lines 17 to 20) via clamps 34. The rail 26 includes four spaced openings 30a-30d facing forward toward the cab and which receive clamps 34 (FIG. 5; col. 1, line 48; col. 2, line 57). Thus, Dunlop includes two surfaces with holes; i.e., (1) the surface with openings 24, and (2) the surface with openings 30a-30d. However, neither of these surfaces are *slotted* as claimed.

Additionally, Dunlop fails to disclose or suggest a mounting surface of the track that is recessed with respect to the contour of adjacent portions of the body. Rather, the rail 26 in Dunlop is mounted on top of the rim 21 of the cargo box, and is not recessed at all.

Thus, as Dunlop fails to disclose or suggest all of the claimed features, it cannot anticipate the claimed invention.

**U.S. Patent No. 4,717,298 (Bott '298)**

Bott '298 is directed at a cargo restraint system for the bed of a truck comprising a primary cargo securing element and cargo securing members clampingly engageable with the primary cargo securing element (see Abstract). As shown in FIG. 8, the slats 180 can be secured directly to the floor 22 of the cargo bed portion 12 (col. 5, lines 39 to 42). When the slats 180 are directly secured to the floor 22, however, there are no adjacent portions of the floor 22 to the slotted surface of the slats 180. Thus, the embodiment shown in FIG. 8 fails to anticipate the claimed invention.

Additionally, Bott '298 discloses in FIG. 3 a primary cargo element 52 secured to a liner 28 (col. 3, lines 17 to 19) such that the plane formed by the upper surfaces 58 and 60 is the same as or vertically elevated from a plane formed by support

surfaces 50 of the base 36 of the liner 28 (col. 3, lines 39 to 47). Insert liners as disclosed by Bott '298, however, suffer from wear problems which require them to be readily replaceable without impairment of the structure of the underlying truck bed (col. 1, lines 50 to 53). Thus, the primary cargo element 52 in Bott '298 must be removable, because the primary cargo element 52 is secured to the removable liner 28. This prevents use of many fastening techniques for securing the primary cargo element 52 to the floor 22, such as welding (see claim 2 of the present invention), which provide a strong coupling between the track and the bed, and is relatively easy to perform in an automated process. Additionally, this limits the placement of bolts/screws/etc. of other fastening techniques, which must be placed in readily accessible positions to facilitate removal of the primary cargo element 52 by service personnel.

Moreover, the Bott '298 configuration requires the liner 28 to be installed *before* the primary cargo element 52. This prevents protective coatings (e.g., spray on bed liners, UV protective coatings, paint, etc.) from being applied *after* the primary cargo element 52 is installed. When the track 141 of the present invention is installed *before* a protective coating is applied, there is a uniform interface between the track 141 and the cargo bed 110, which provides a more secure attachment of the track 141 to the cargo bed 110. Of course, it should be appreciated that some protective coatings (e.g., paint, spray on linings, etc.) can be applied before installing the primary cargo element 52 while maintaining a substantially direct coupling therebetween.

Thus, Bott '298 fails to disclose or suggest at least one tie-down track mounted on the body, because in Bott '298 the primary cargo element 52 is mounted on a removable plastic liner 28. Also, because a removable plastic liner 28 is not a body, in Bott '298 the mounting surface does is not recessed below the floor 22, as shown in FIG. 8 of Bott '298.

As Bott '298 fails to disclose or suggest at least one tie-down track mounted on the body such that a mounting surface of the track is recessed with respect to the contour of adjacent portions of a horizontal plane of the body, it cannot anticipate the claimed invention.

Regarding claim 3 specifically, the entire tie down/positioning member 76 of Bott '298 is not releasable as claimed. Rather, the clamping element 102 remains in

the primary cargo element 52. Thus, Bott '298 fails to disclose this additional element in claim 3.

**U.S. Patent No. 5,433,566 (Bradley)**

Bradley is directed at a tailgate-mounted apparatus for stabilizing loads being carried in or supported by a pickup truck (see Abstract). The stabilizing apparatus 30 includes a bar 32 extending along the tailgate 14 inside surface 24 and supported by end supports 34 and 36 (col. 4, lines 6 to 9, and lines 12 to 14), which allow the bar 32 to be selectively configurable in several positions for different purposes (col. 5, lines 19 to 21). However, Bradley fails to disclose or suggest a tie-down track having a slotted surface as claimed.

Furthermore, the bar 32 (with the openings) of Bradley is *not* mounted on the body. Rather, the bar 32 of Bradley is mounted within the end supports 32 and 34, which selectively allow for repositioning of the bar. Additionally, the bar 32 is not mounted such that a mounting surface of the track is recessed with respect to the contour of adjacent portions of a horizontal plane of the body.

As Bradley fails to disclose or suggest all of the claimed limitations, it cannot anticipate the claimed invention.

**New Claims 30 and 31**

New claims 30 and 31 have been added to more fully recite features of the present invention. Support for new claims 30 and 31 can be found, for example, in Figure 1, and in paragraph [0041] of the as filed specification. New claim 30 is dependent upon claim 1, and is considered to be allowable for at least the aforementioned reasons with respect to claim 1, in addition to the further patentable features recited therein. New claim 31 is dependent upon claim 4, and is considered to be allowable for at least the aforementioned reasons with respect to claim 4, in addition to the further patentable features recited therein. Allowance of new claims 30 and 31 is earnestly solicited.

**Rejoinder Of Claims 2, 16-21, and 29**

As generic claim 1 is considered to be allowable, rejoinder and allowance of claims 2, 16-21, and 29 which are dependent upon claim 1 is earnestly solicited.


**C nclusion**

Applicant believes that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

Respectfully submitted,

Date March 20, 2003

By 

FOLEY & LARDNER  
Customer Number: 22428



**22428**

PATENT TRADEMARK OFFICE

Telephone: (202) 945-6112

Facsimile: (202) 672-5399

Daniel L. Girdwood  
Agent for Applicant  
Registration No. 52,947

Should additional fees be necessary in connection with the filing of this paper, or if a petition for extension of time is required for timely acceptance of same, the Commissioner is hereby authorized to charge deposit account No. 19-0741 for any such fees; and applicant hereby petitions for any needed extension of time.

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**In the Specification:**

[0041] An important feature of the invention is that the tracks are outside of the passenger compartment (in the Figure 1 embodiment the tracks are behind the passenger compartment). This allows the storage of larger, heavier loads. Another important feature of the invention is that the tracks 141 to 148 are integral with the body of truck 100 such that the exterior contours of the tracks do not extend appreciably beyond the contour of adjacent portions of the body (e.g., not more than 1/8, 1/4, 1/2, or 3/4 inch beyond the contour of adjacent portions of the body).

[0073] To assemble the unit, the spring 1968 is slid onto the center shaft 1910 stopping against a larger diameter near the eye end. The locking ring 1960 is then slid over the square shank 1930 of the center shaft 1910. Then, the lock bar 1950 is installed over the center shaft pin [1910] 1940, and is aligned so that the long side of the lock bar 1950 is perpendicular to a long side of the locking ring boss 1962 and is screwed (or pinned) in place by screw 1952.

**In the Claims:**

1. (Amended) A truck, comprising:  
a body; and  
at least one tie-down track mounted on the body[, the tie-down track being integral with the body of the truck] such that [the exterior contour] a mounting surface of the track [does not extend appreciably beyond] is recessed with respect to the contour of adjacent portions of a horizontal plane of the body and a slotted surface of the track does not extend appreciably beyond the horizontal plane of the body.

3. (Amended) A truck [as set forth in claim 1], [further] comprising:  
a body;



at least one tie-down track, the tie-down track being integral with the body of the truck such that the exterior contour of the track does not extend appreciably beyond the contour of adjacent portions of the body; and

a fitting which can be slidingly moved within the track and then fixed in a desired position, the entire fitting being releasable from the track.

4. (Amended) A truck [as set forth in claim 1], comprising:

a body; and

at least one tie-down track, the tie-down track being integral with the body of the truck such that the exterior contour of the track does not extend appreciably beyond the contour of adjacent portions of the body,

wherein the body forms a cargo bed and the track does not extend appreciably beyond [the] a horizontal plane of a floor of the cargo bed.

5. (Amended) A truck as set forth in claim 1, wherein the [truck further] body comprises a cargo bed [and a cab] and the track is mounted at [the] a front of the cargo bed parallel to a rear end of [the] a cab of the truck.

6. (Amended) A truck as set forth in claim 1, wherein the [truck further] body comprises a cargo bed and the tie-down track is [located] mounted in the cargo bed parallel to a longitudinal direction of the truck.

7. (Amended) A truck as set forth in claim 6, further comprising:

a second tie-down track in the cargo bed, the second tie-down track [being integral with the body of the truck] mounted on the body such that [the exterior contour] a mounting surface of the second tie-down track [does not extend appreciably beyond] is recessed with respect to the contour of adjacent portions of the horizontal plane of the body and a slotted surface of the second tie-down track does not extend appreciably beyond the horizontal plane of the body.

8. (Amended) A truck as set forth in claim 1, wherein the [truck further] body comprises a cargo bed and the tie-down track is located in a side wall of the cargo bed parallel to a longitudinal direction of the truck.

9. (Amended) A truck as set forth in claim 8, further comprising:  
a second tie-down track in a second side wall of the cargo bed, the second tie-down track [being integral with the body of the truck] mounted on the second side wall such that [the exterior contour] a mounting surface of the second tie-down track [does not extend appreciably beyond] is recessed with respect to the contour of adjacent portions of the horizontal plane of the body and a slotted surface of the second tie-down track does not extend appreciably beyond the horizontal plane of the body.

10. (Amended) A truck as set forth in claim 1, wherein the [truck further] body comprises a tailgate and wherein the track is supported by the tailgate.

11. (Amended) A truck as set forth in claim 1, wherein the [exterior contour] slotted surface of the track does not extend more than 1/2 inch beyond the contour of the adjacent portions of the body.

12. (Amended) A truck as set forth in claim 1, wherein the [exterior contour] slotted surface of the track does not extend more than 1/4 inch beyond the contour of the adjacent portions of the body.

13. (Amended) A truck as set forth in claim 1, wherein the [exterior contour] slotted surface of the track does not extend more than 1/8 inch beyond the contour of the adjacent portions of the body.

14. (Amended) A truck as set forth in claim 1, wherein [the] an exterior contour of the track is flush with the adjacent portions of the body.

15. (Amended) A truck as set forth in claim 1, wherein the [track has a slot opening which] slotted surface is flush with the adjacent portions of the body.

17. (Amended) A truck as set forth in claim 1, further comprising a protective strip which fits into [a track slot opening] a slot in the slotted surface.

23. (Amended) A truck as set forth in claim 1, wherein the [tie-down track] slotted surface has a slot opening in a vertical [plane] direction.

25. (Amended) A truck as set forth in claim 1, wherein the truck comprises a first tie-down track, a second tie-down track, and a third tie-down track; each of the first, second, and third tie-down tracks being [integral with the body of the truck] mounted on the body such that [the exterior contour] the mounting surface of the track [does not extend appreciably beyond] is recessed with respect to the contour of adjacent portions of the horizontal plane of the body and the slotted surface of the track does not extend appreciably beyond the horizontal plane of the body.

27. (Amended) A truck as set forth in claim 24, wherein the track is located in or adjacent to [the] a cargo bed of [a pickup] the truck.

28. (Amended) A truck as set forth in claim 1, wherein the [exterior contour] slotted surface of the track does not extend more than 3/4 inch beyond the contour of the adjacent portions of the body.